

EXHIBIT C

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8 BMW of NORTH AMERICA, LLC

10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

13 MONITA SHARMA and ERIC ANDERSON,
on behalf of themselves and all others
14 similarly situated,

15 Plaintiffs,

16 v.

17 BMW of NORTH AMERICA, LLC, a
Delaware Limited Liability Company,

18 Defendant.
19

Case No. CV-13-2274 (MMC)

**DEFENDANT BMW OF NORTH AMERICA,
LLC'S RESPONSES TO PLAINTIFFS' FIRST SET
OF DOCUMENT REQUESTS**

The Hon. Maxine M. Chesney

20 PROPOUNDING PARTY: Plaintiffs MONITA SHARMA and ERIC ANDERSON

21 RESPONDING PARTY: Defendant BMW OF NORTH AMERICA, LLC

22 SET NUMBER: One

1 14. By submitting these responses, BMW NA does not in any way adopt plaintiffs’
2 purported definitions of words and phrases contained in plaintiffs’ Requests. BMW NA objects to
3 those definitions to the extent that they are inconsistent with the ordinary and customary meaning
4 of such words and phrases. Likewise, BMW NA objects to plaintiffs’ purported definitions,
5 including but not limited to the definitions of “Document” and “Communication”, as well as
6 plaintiffs’ Instructions, to the extent that they purport to impose upon BMW NA any obligations
7 broader than, or inconsistent with, applicable discovery rules or common law.

8 15. BMW NA objects to each and every Request to the extent it asks about documents
9 or other information created or obtained after the date of plaintiffs’ filing of the complaint in this
10 litigation.

11 16. BMW NA has not yet completed its investigation of the facts related to this
12 litigation. Consequently, all of the responses contained herein are based only on such information
13 and documentation that is presently available to BMW NA and disclose only the information and
14 contentions presently known to BMW NA. BMW NA reserves the right to amend these
15 responses, and to offer related evidence, as additional facts are ascertained, analyses are made,
16 research is completed, and contentions become apparent.

17
18 **RESPONSES AND OBJECTIONS TO DOCUMENT REQUESTS**

19 **REQUEST FOR PRODUCTION NO. 1:**

20 The native files of all computer-aided design (CAD) models/drawings, 2-dimensional
21 drawings or models of the Electronic Component Parts and Drainage Tubes in the Class Vehicles.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

23 BMW NA objects to this Request on the grounds that the term “Electronic Component
24 Parts” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
25 this case as it includes components not identified in the TAC and/or that are not located in the
26 spare tire well or “lowest point in the trunk,” as alleged in the complaint.

27 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
28 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case

1 to the extent it seeks to include models/model years that do not have the components identified in
2 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
3 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
4 BMW X3.

5 Further, the claims in the TAC relate to the location of the modules, not the design of the
6 modules themselves, and so a request for CAD (or other similar) files for the modules are not
7 reasonably calculated to lead to the discovery of admissible evidence.

8 BMW NA objects that the TAC addresses over ten model years of vehicles and that even if
9 the materials requested are relevant, the burden placed on BMW NA is out of proportion with the
10 needs of the case.

11 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
12 of another entity or entities and to the extent it seeks information not within BMW NA’s
13 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
14 putative class vehicles; it does not design or manufacture them. BMW NA’s responds to this
15 Request only on its behalf.

16 BMW NA objects to this Request to the extent it seeks information that would require
17 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
18 grounds that it seeks information that would violate the privacy rights of consumers under state
19 and federal law.

20 Subject to and without waiving the foregoing objections, BMW NA does not design or
21 manufacture the putative Class Vehicles. By way of further response, BMW NA agrees to
22 produce maintenance materials showing the locations of the RDC, PDC and SDARS modules in
23 the putative Class Vehicles. *See* SHARMA_BMWNA_000895-905

24 **REQUEST FOR PRODUCTION NO. 2:**

25 All Documents that reference or relate to design specifications for the Electronic
26 Component Parts and Drainage Tubes for the Class Vehicles. This includes drawings, blueprints
27 and diagrams, 2-dimensional drawings and native electronic files of any computer-aided design
28

(CAD) drawing or modeling of the components, themselves, as well as the location of those components and surrounding components.

RESPONSE TO REQUEST FOR PRODUCTION NO. 2:

BMW NA objects to this Request on the grounds that the term “Electronic Component Parts” and “location of . . . surrounding components” are overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case as it includes components not identified in the TAC and/or that are not located in the spare tire well or “lowest point in the trunk,” as alleged in the complaint.

BMW NA objects to this Request on the grounds that the term “Class Vehicles” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case to the extent it seeks to include models/model years that do not have the components identified in the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003 BMW X3.

Further, the claims in the TAC relate to the location of the modules, not the design of the modules themselves, and so a request for CAD (or other similar) files for the modules themselves are not reasonably calculated to lead to the discovery of admissible evidence.

BMW NA objects that TAC addresses over ten model years of vehicles and that even if the materials requested are relevant, the burden placed on BMW NA is out of proportion of the needs of the case.

BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf of another entity or entities and to the extent it seeks information not within BMW NA’s possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the putative class vehicles; it does not design or manufacture them. BMW NA’s responds to this Request only on its behalf.

BMW NA objects to this Request as improper to the extent it could be construed to seek information covered by the attorney-client privilege, the attorney work product doctrine, or any other judicially recognized privilege, protection, or rights of confidentiality. It is too premature to

1 determine whether this Request calls for responsive but privileged material, but if it turns out that
2 it does, BMW NA agrees to produce a privilege log.

3 BMW NA objects to this Request to the extent it seeks information that would require
4 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
5 grounds that it seeks information that would violate the privacy rights of consumers under state
6 and federal law.

7 Subject to and without waiving the foregoing objections, insofar as it understands this
8 request BMW NA has conducted a search and it has no responsive documents for the “design
9 specification[]” documents requested. BMW NA will produce maintenance materials showing the
10 locations of the RDC, PDC and SDARS modules in the putative Class Vehicles
11 (SHARMA_BMWNA_000895-905).

12 **REQUEST FOR PRODUCTION NO. 3:**

13 Documents describing BMW NA’s decision-making process for locating the Electronic
14 Component Parts where it did in the Class Vehicles.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

16 BMW NA objects to this Request on the grounds that the term “Electronic Component
17 Parts” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
18 this case as it includes components not identified in the TAC and/or that are not located in the
19 spare tire well or “lowest point in the trunk,” as alleged in the complaint.

20 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
21 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
22 to the extent it seeks to include models/model years that do not have the components identified in
23 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
24 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
25 BMW X3.

26 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
27 of another entity or entities and to the extent it seeks information not within BMW NA’s
28 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the

1 putative class vehicles; it does not design or manufacture them. BMW NA's responds to this
2 Request only on its behalf.

3 BMW NA objects to this Request as improper to the extent it could be construed to seek
4 information covered by the attorney-client privilege, the attorney work product doctrine, or any
5 other judicially recognized privilege, protection, or rights of confidentiality. It is too premature to
6 determine whether this Request calls for responsive but privileged material, but if it turns out that
7 it does, BMW NA agrees to produce a privilege log.

8 BMW NA objects to this Request to the extent it seeks information that would require
9 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
10 grounds that it seeks information that would violate the privacy rights of consumers under state
11 and federal law.

12 Subject to and without waiving the foregoing objections, to the extent it understands this
13 Request, BMW NA did not participate in the "decision making process" referenced and has no
14 responsive documents.

15 **REQUEST FOR PRODUCTION NO. 4:**

16 All Documents concerning any analysis used to identify hazards and minimize the risk of
17 failure associated with water, liquid, or moisture intrusion in the Electronic Component Parts for
18 the Class Vehicles. This includes, but is not limited to, any Fault Tree Analyses (FTA), Failure
19 Modes and Effects Analyses (FMEA—also known as Failure Modes, Effects and Criticality
20 Analyses or FMECA), Fishbone diagrams, Preliminary Hazard Analyses (PHA), or other similar
21 documents.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 4:**

23 BMW NA objects to this Request to the extent it seeks information that would require
24 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
25 grounds that it seeks information that would violate the privacy rights of consumers under state
26 and federal law. Accordingly, BMW NA agrees to produce any non-privileged, responsive
27 information called for by this Request following entry of a stipulated protective order governing
28 the production of confidential matter.

1 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
2 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
3 to the extent it seeks to include models/model years that do not have the components identified in
4 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
5 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
6 BMW X3.

7 Subject to and without waiving the foregoing objections, and to the extent it understands
8 this Request, BMW NA did not participate in the design of the putative Class Vehicles and has no
9 responsive documents.

10 **REQUEST FOR PRODUCTION NO. 5:**

11 All Documents and Communications relating to safety issues associated with water, liquid,
12 or moisture intrusion in the Electronic Component Parts or the compartment within which the
13 Electronic Component Parts sit in the Class Vehicles.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 5:**

15 BMW NA objects to the undefined terms “safety issues” and “compartments in which the
16 [ECPs] sit” which make this Request ambiguous.

17 BMW NA objects to this Request on the grounds that the term “Electronic Component
18 Parts” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
19 this case as it includes components not identified in the TAC and/or that are not located in the
20 spare tire well or “lowest point in the trunk,” as alleged in the complaint.

21 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
22 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
23 to the extent it seeks to include models/model years that do not have the components identified in
24 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
25 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
26 BMW X3.

27 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
28 of another entity or entities and to the extent it seeks information not within BMW NA’s

1 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
2 putative class vehicles; it does not design or manufacture them. BMW NA's responds to this
3 Request only on its behalf.

4 BMW NA objects to this Request as improper to the extent it could be construed to seek
5 information covered by the attorney-client privilege, the attorney work product doctrine, or any
6 other judicially recognized privilege, protection, or rights of confidentiality. It is too premature to
7 determine whether this Request calls for responsive but privileged material, but if it turns out that
8 it does, BMW NA agrees to produce a privilege log.

9 BMW NA objects to this Request to the extent it seeks information that would require
10 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
11 grounds that it seeks information that would violate the privacy rights of consumers under state
12 and federal law.

13 Subject to and without waiving the foregoing objections, and insofar as it understands this
14 request, BMW NA has conducted a search and it has no responsive documents concerning any
15 "safety issues" in relation to "water, liquid, or moisture intrusion in the Electronic Component
16 Parts or the compartment within which the Electronic Component Parts sit in the Class Vehicles."

17 **REQUEST FOR PRODUCTION NO. 6:**

18 All service bulletins, service flashes, or other Documents discussing water ingress into
19 areas where the Electronic Component Parts of the Class Vehicles are located.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 6:**

21 BMW NA objects to the terms "service flashes," "other Documents," "water ingress into
22 areas" as making this Request ambiguous, overbroad and burdensome.

23 BMW NA objects to this Request on the grounds that the term "Electronic Component
24 Parts" is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
25 this case as it includes components not identified in the TAC and/or that are not located in the
26 spare tire well or "lowest point in the trunk," as alleged in the complaint.

27 BMW NA objects to this Request on the grounds that the term "Class Vehicles" is
28 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case

1 to the extent it seeks to include models/model years that do not have the components identified in
2 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
3 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
4 BMW X3.

5 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
6 of another entity or entities and to the extent it seeks information not within BMW NA’s
7 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
8 putative class vehicles; it does not design or manufacture them. BMW NA’s responds to this
9 Request only on its behalf.

10 BMW NA objects to this Request to the extent it seeks information that would require
11 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
12 grounds that it seeks information that would violate the privacy rights of consumers under state
13 and federal law.

14 Subject to and without waiving the foregoing objections,*see*
15 SHARMA_BMWNA_000888-891 and SHARMA_BMWNA_000892-894.

16 **REQUEST FOR PRODUCTION NO. 7:**

17 All Documents that relate to the reliability, failure rate, projected failure, or lifespan of any
18 part in the Electronic Component Parts, including, but not limited to circumstances concerning the
19 placement of the Electronic Component Parts and their viability in moist or damp environments in
20 the Class Vehicles.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 7:**

22 BMW NA objects that phrase “circumstances concerning the placement of the Electronic
23 Component Parts” is incomprehensible.

24 BMW NA objects to the undefined terms “reliability, failure rate [and] projected failure”
25 as making this Request ambiguous.

26 BMW NA objects to this Request on the grounds that the term “Electronic Component
27 Parts” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
28

1 this case as it includes components not identified in the TAC and/or that are not located in the
2 spare tire well or “lowest point in the trunk,” as alleged in the complaint.

3 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
4 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
5 to the extent it seeks to include models/model years that do not have the components identified in
6 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
7 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
8 BMW X3.

9 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
10 of another entity or entities and to the extent it seeks information not within BMW NA’s
11 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
12 putative class vehicles; it does not design or manufacture them. BMW NA’s responds to this
13 Request only on its behalf.

14 BMW NA objects to this Request as improper to the extent it could be construed to seek
15 information covered by the attorney-client privilege, the attorney work product doctrine, or any
16 other judicially recognized privilege, protection, or rights of confidentiality. It is too premature to
17 determine whether this Request calls for responsive but privileged material, but if it turns out that
18 it does, BMW NA agrees to produce a privilege log.

19 BMW NA objects to this Request to the extent it seeks information that would require
20 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
21 grounds that it seeks information that would violate the privacy rights of consumers under state
22 and federal law.

23 Subject to and without waiving the foregoing objections, BMW NA does not manufacture
24 or design the Putative Class Vehicles. By way of further response, BMW NA agrees to produce
25 SI B61 13 06, which concerns the locations and placement of certain electronic modules in the
26 E60. *See* SHARMA_BMWNA_000888-891; *see also* Response to Request No. 2.

1 **REQUEST FOR PRODUCTION NO. 8:**

2 All Documents that reference actual or potential defects relating to the Electronic
3 Component Parts and Drainage Tubes, including, but not limited to circumstances where leaks in
4 or the rupturing of Drainage Tubes result in water or moisture accumulation in the Class Vehicles
5 and the effect of such moisture, dampness, or water on the Electronic Component Parts.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 8:**

7 BMW NA objects to the terms “actual or potential defects,” “rupturing,” and “effect of” as
8 making this Request vague and ambiguous.

9 BMW NA further objects to this Request on the grounds that it is argumentative and
10 assumes facts regarding the existence of an “actual or potential defect.”

11 BMW NA objects to this Request on the grounds that the term “Electronic Component
12 Parts” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
13 this case as it includes components not identified in the TAC and/or that are not located in the
14 spare tire well or “lowest point in the trunk,” as alleged in the complaint.

15 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
16 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
17 to the extent it seeks to include models/model years that do not have the components identified in
18 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
19 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
20 BMW X3.

21 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
22 of another entity or entities and to the extent it seeks information not within BMW NA’s
23 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
24 putative class vehicles; it does not design or manufacture them. BMW NA’s responds to this
25 Request only on its behalf.

26 BMW NA objects to the undefined term “related to” on the grounds that it is vague and
27 ambiguous because it does not identify the information sought with reasonable particularity and,
28

1 therefore, is overbroad, unduly burdensome, and seeks information wholly unrelated to the alleged
2 defect, relevant parts, and claims asserted in this case.

3 BMW NA objects to this Request as improper to the extent it could be construed to seek
4 information covered by the attorney-client privilege, the attorney work product doctrine, or any
5 other judicially recognized privilege, protection, or rights of confidentiality. It is too premature to
6 determine whether this Request calls for responsive but privileged material, but if it turns out that
7 it does, BMW NA agrees to produce a privilege log.

8 BMW NA objects to this Request to the extent it seeks information that would require
9 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
10 grounds that it seeks information that would violate the privacy rights of consumers under state
11 and federal law.

12 Subject to and without waiving the foregoing objections, BMW NA denies the existence of
13 any “actual or potential” defects but agrees to produce SI B61 13 06. *See*
14 SHARMA_BMWNA_000888-891.

15 **REQUEST FOR PRODUCTION NO. 9:**

16 Any assessments, analyses, tests, test results, studies, surveys, simulations, investigations,
17 inquiries, engineering changes, and/or evaluations (collectively, “Actions”) related to the
18 Electronic Component Parts and Drainage Tubes in the Class Vehicles, including, but not limited
19 to circumstances where leaks in or the rupturing of Drainage Tubes result in water or moisture
20 accumulation in the Class Vehicles and the effect of such moisture, dampness, or water on the
21 Electronic Component Parts. This includes any Actions which have been conducted, are being
22 conducted, or are planned by, or for, BMW NA. Please ensure that Your response includes testing
23 or analysis conducted by BMW NA, its suppliers, or any other third-parties, on any and all subject
24 components returned to BMW NA or the supplier, from field service, or other consumer use.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 9:**

26 BMW NA objects to this Request on the grounds that the term “Electronic Component
27 Parts” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
28

1 this case as it includes components not identified in the TAC and/or that are not located in the
2 spare tire well or “lowest point in the trunk,” as alleged in the complaint.

3 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
4 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
5 to the extent it seeks to include models/model years that do not have the components identified in
6 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
7 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
8 BMW X3.

9 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
10 of another entity or entities and to the extent it seeks information not within BMW NA’s
11 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
12 putative class vehicles; it does not design or manufacture them. BMW NA’s responds to this
13 Request only on its behalf.

14 BMW NA objects to the undefined term “related to” on the grounds that it is vague and
15 ambiguous because it does not identify the information sought with reasonable particularity and,
16 therefore, is overbroad, unduly burdensome, and seeks information wholly unrelated to the alleged
17 defect, relevant parts, and claims asserted in this case.

18 BMW NA objects to this Request as improper to the extent it could be construed to seek
19 information covered by the attorney-client privilege, the attorney work product doctrine, or any
20 other judicially recognized privilege, protection, or rights of confidentiality.

21 BMW NA objects to this Request to the extent it seeks information that would require
22 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
23 grounds that it seeks information that would violate the privacy rights of consumers under state
24 and federal law.

25 Subject to and without waiving the foregoing objections, BMW NA does not design or
26 manufacture the Putative Class Vehicles. By way of further response, BMW NA agrees to
27 produce SI B61 13 06, which concerns the locations and placement of certain electronic modules
28 in the E60. *See* SHARMA_BMWNA_000888-891; *see also* Response to Request No. 2.

REQUEST FOR PRODUCTION NO. 10:

All Documents relating to testing, including, but not limited to track testing, road testing, laboratory testing, or any other durability testing at a vehicle system or component level, which references the Electronic Component Parts and/or Drainage Tubes, including, but not limited to circumstances where leaks in or the rupturing of Drainage Tubes result in water or moisture accumulation in the Class Vehicles and the effect of such moisture, dampness, or water on the Electronic Component Parts. This includes video footage, data, results, and notes.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

BMW NA objects to this Request on the grounds that the term “Electronic Component Parts” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case as it includes components not identified in the TAC and/or that are not located in the spare tire well or “lowest point in the trunk,” as alleged in the complaint.

BMW NA objects to this Request on the grounds that the term “Class Vehicles” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case to the extent it seeks to include models/model years that do not have the components identified in the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003 BMW X3.

BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf of another entity or entities and to the extent it seeks information not within BMW NA’s possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the putative class vehicles; it does not design or manufacture them. BMW NA’s responds to this Request only on its behalf.

BMW NA objects to this Request as improper to the extent it could be construed to seek information covered by the attorney-client privilege, the attorney work product doctrine, or any other judicially recognized privilege, protection, or rights of confidentiality.

BMW NA objects to this Request to the extent it seeks information that would require BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the

1 grounds that it seeks information that would violate the privacy rights of consumers under state
2 and federal law.

3 **REQUEST FOR PRODUCTION NO. 11:**

4 From 1998 to present, a copy of your organizational charts and/or directories identifying
5 each individual involved in the design, manufacture, development, testing, and engineering of the
6 Electronic Component Parts and/or Drainage Tubes of the Class Vehicles. Include the name of
7 each individual that presently occupies each position and the individual who had occupied each
8 such position when the Electronic Component Parts and/or Drainage Tubes described above for
9 the Class Vehicles were designed.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 11:**

11 BMW NA objects to this Request on the grounds that the term “Electronic Component
12 Parts” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
13 this case as it includes components not identified in the TAC and/or that are not located in the
14 spare tire well or “lowest point in the trunk,” as alleged in the complaint.

15 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
16 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
17 to the extent it seeks to include models/model years that do not have the components identified in
18 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
19 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
20 BMW X3.

21 BMW NA objects to the terms “[o]rganizational charts” as vague, ambiguous, overbroad,
22 unduly burdensome, and seeking information far beyond the scope of the alleged defect and
23 allegedly defective parts at issue and further, that seeking nearly 20 years of such documents is out
24 of proportion to the needs of the case.

25 BMW NA further objects to this Request on the grounds that it constitutes an
26 impermissible interrogatory in the guise of a document request and/or impermissibly requires
27 BMW NA to create a document because it requests BMW NA identify individuals.

1 Subject to and without waiving the foregoing objections, BMW NA did not design or
2 manufacture the Putative Class Vehicles.

3 **REQUEST FOR PRODUCTION NO. 12:**

4 All marketing and advertising materials for the Class Vehicles.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 12:**

6 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
7 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
8 to the extent it seeks to include models/model years that do not have the components identified in
9 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
10 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
11 BMW X3.

12 BMW NA objects that Plaintiffs have not brought an affirmative misrepresentation claim
13 and so the Request is not reasonably calculated to lead to the discovery of admissible evidence.

14 BMW NA objects that the Request is overbroad and burdensome and that even if it sought
15 relevant evidence, the burden that gathering the information would place on BMW NA is out of
16 proportion with the needs of the case.

17 **REQUEST FOR PRODUCTION NO. 13:**

18 Documents (such as spreadsheets) showing for each year—from 1998 to present—the total
19 number of Class Vehicles sold by You and/or Your authorized retailers/dealers (a) within the
20 United States; and (b) for each state in the United States. This information should, for each year
21 and for each Class Vehicle, identify the model, the vehicle identification number, and the sale
22 price. Please produce this information in an Excel, Access, or similar type of database format,
23 which can be sorted and organized by the Plaintiffs.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 13:**

25 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
26 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
27 to the extent it seeks to include models/model years that do not have the components identified in
28 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as

1 BMW NA objects to the vague term “sales contracts” as making this Request ambiguous.
2 Subject to and without waiving the foregoing objections, BMW NA produced as part of its
3 initial disclosures the sales contracts for plaintiffs Sharma and Anderson.

4 **REQUEST FOR PRODUCTION NO. 19:**

5 All contracts between You and the dealerships identified in Plaintiffs’ Complaint.

6 **RESPONSE TO REQUEST FOR PRODUCTION NO. 19:**

7 BMW NA objects to the undefined term “contracts” as making this Request ambiguous.

8 BMW NA objects that any “contracts” with its dealerships are wholly unrelated to
9 anything alleged in the TAC and this Request is thus overbroad and not reasonably calculated to
10 lead to the discovery of admissible evidence.

11 BMW NA objects to this Request to the extent it seeks information that would require
12 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
13 grounds that it seeks information that would violate the privacy rights of consumers under state
14 and federal law.

15 **REQUEST FOR PRODUCTION NO. 20:**

16 All Communications with NHTSA, the U.S. Department of Transportation, or the
17 departments of transportation of any U.S. state regarding the defects alleged in the Plaintiffs’
18 Complaint, the Electronic Component Parts, and/or the Drainage Tubes, including any prior drafts
19 of same, meeting minutes, internal memoranda and any exhibits or supporting Documents related
20 to same.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 20:**

22 BMW NA objects to this Request on the grounds that the term “Electronic Component
23 Parts” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
24 this case as it includes components not identified in the TAC and/or that are not located in the
25 spare tire well or “lowest point in the trunk,” as alleged in the complaint.

26 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
27 of another entity or entities and to the extent it seeks information not within BMW NA’s
28 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the

1 putative class vehicles; it does not design or manufacture them. BMW NA's responds to this
2 Request only on its behalf.

3 BMW NA objects to this Request as improper to the extent it could be construed to seek
4 information covered by the attorney-client privilege, the attorney work product doctrine, or any
5 other judicially recognized privilege, protection, or rights of confidentiality. It is too premature to
6 determine whether this Request calls for responsive but privileged material, but if it turns out that
7 it does, BMW NA agrees to produce a privilege log.

8 BMW NA objects to this Request to the extent it seeks information that would require
9 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
10 grounds that it seeks information that would violate the privacy rights of consumers under state
11 and federal law.

12 Subject to and without waiving the foregoing objections, BMW NA has conducted
13 reasonably diligent searches and has not located any responsive documents.

14 **REQUEST FOR PRODUCTION NO. 21:**

15 All Documents that relate to any investigation, recall, or potential recall in the United
16 States or any other country in which the Class Vehicles are sold, of any part of the Electronic
17 Component Parts or Drainage Tubes.

18 **RESPONSE TO REQUEST FOR PRODUCTION NO. 21:**

19 BMW NA objects to this Request on the grounds that the term "Electronic Component
20 Parts" is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
21 this case as it includes components not identified in the TAC and/or that are not located in the
22 spare tire well or "lowest point in the trunk," as alleged in the complaint.

23 BMW NA objects to this Request on the grounds that the term "Class Vehicles" is
24 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
25 to the extent it seeks to include models/model years that do not have the components identified in
26 the TAC and/or components not located in the spare tire well or "lowest point in the trunk," as
27 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
28 BMW X3.

1 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
2 of another entity or entities and to the extent it seeks information not within BMW NA's
3 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
4 putative class vehicles; it does not design or manufacture them. BMW NA's responds to this
5 Request only on its behalf.

6 BMW NA objects to this Request as improper to the extent it could be construed to seek
7 information covered by the attorney-client privilege, the attorney work product doctrine, or any
8 other judicially recognized privilege, protection, or rights of confidentiality. It is too premature to
9 determine whether this Request calls for responsive but privileged material, but if it turns out that
10 it does, BMW NA agrees to produce a privilege log.

11 BMW NA objects to this Request to the extent it seeks information that would require
12 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
13 grounds that it seeks information that would violate the privacy rights of consumers under state
14 and federal law.

15 Subject to and without waiving the foregoing objections, BMW NA states that there are
16 no, and have not been, investigations by NHTSA, or any other agency, nor any recalls of the
17 Electronic Component Parts or Drainage Tubes.

18 **REQUEST FOR PRODUCTION NO. 22:**

19 All Documents exchanged between BMW NA and NHTSA, the U.S. Department of
20 Transportation, or the departments of transportation of any U.S. state relating to the Electronic
21 Component Parts and/or Drainage Tubes.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 22:**

23 BMW NA objects to this Request on the grounds that the term "Electronic Component
24 Parts" is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
25 this case as it includes components not identified in the TAC and/or that are not located in the
26 spare tire well or "lowest point in the trunk," as alleged in the complaint.

27 BMW NA objects to the undefined term "exchanged" as making this Request ambiguous.
28

1 this case as it includes components not identified in the TAC and/or that are not located in the
2 spare tire well or “lowest point in the trunk,” as alleged in the complaint.

3 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
4 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
5 to the extent it seeks to include models/model years that do not have the components identified in
6 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
7 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
8 BMW X3.

9 BMW NA objects to the undefined terms and phrases “regarding the service or general
10 repair of ” as vague, ambiguous, overbroad, unduly burdensome, and seeking information far
11 beyond the scope of the alleged defect and allegedly defective parts at issue.

12 Subject to and without waiving the foregoing objections, *see* BMW NA’s Response to
13 Request No. 6.

14 **REQUEST FOR PRODUCTION NO. 24:**

15 Any complaints, inquiries, or comments by consumers regarding the alleged defects
16 described in Plaintiffs’ Complaint, including failure or compromise of the Electronic Component
17 Parts due to water ingress or moisture build-up. Please provide all search terms used for
18 responding to this Request and provide these Documents in their native format.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 24:**

20 BMW NA objects to this Request on the grounds that the term “Electronic Component
21 Parts” is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
22 this case as it includes components not identified in the TAC and/or that are not located in the
23 spare tire well or “lowest point in the trunk,” as alleged in the complaint.

24 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
25 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
26 to the extent it seeks to include models/model years that do not have the components identified in
27 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
28

1 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
2 BMW X3.

3 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
4 of another entity or entities and to the extent it seeks information not within BMW NA's
5 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
6 putative class vehicles; it does not design or manufacture them. BMW NA's responds to this
7 Request only on its behalf.

8 BMW NA objects to this Request to the extent it seeks information that would require
9 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
10 grounds that it seeks information that would violate the privacy rights of consumers under state
11 and federal law. Accordingly, BMW NA agrees to produce any non-privileged, responsive
12 information called for by this Request following entry of a stipulated protective order governing
13 the production of confidential matter.

14 BMW NA objects to this Request on the grounds that it violates the privacy rights of
15 consumers under state and federal law.

16 BMW NA objects to the Request that any responsive materials be produced in "native"
17 format as burdensome and unnecessary.

18 Subject to and without waiving the foregoing objections, BMW NA agrees to meet and
19 confer with Plaintiffs on an appropriate search terms to run searches of its Customer Relations
20 database.

21 **REQUEST FOR PRODUCTION NO. 25:**

22 Documents that refer or relate to the settlement of complaints, claims, and/or lawsuits
23 relating to the Drainage Tubes and/or Electronic Component Parts.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 25:**

25 BMW NA objects to this Request on the grounds that the term "Electronic Component
26 Parts" is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
27 this case as it includes components not identified in the TAC and/or that are not located in the
28 spare tire well or "lowest point in the trunk," as alleged in the complaint.

1 BMW NA objects to the undefined term “related to” on the grounds that it is vague and
2 ambiguous because it does not identify the information sought with reasonable particularity and,
3 therefore, is overbroad, unduly burdensome, and seeks information wholly unrelated to the alleged
4 defect, relevant parts, and claims asserted in this case.

5 BMW NA objects to this Request as improper to the extent it could be construed to seek
6 information covered by the attorney-client privilege, the attorney work product doctrine, or any
7 other judicially recognized privilege, protection, or rights of confidentiality.

8 BMW NA objects to this Request to the extent it seeks information that would require
9 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
10 grounds that it seeks information that would violate the privacy rights of consumers under state
11 and federal law.

12 **REQUEST FOR PRODUCTION NO. 26:**

13 Your written policies for handling complaints, inquiries, and concerns by consumers or
14 governmental bodies regarding alleged mechanical and/or safety defects in Class Vehicles.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 26:**

16 BMW NA objects to the undefined terms “all written policies,” and “alleged mechanical
17 and/or safety defects” on the grounds that they are vague, ambiguous, vastly overbroad, unduly
18 burdensome, and seek information wholly unrelated to the alleged defect, putative Class Vehicles,
19 relevant parts, and claims asserted in this case.

20 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
21 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
22 to the extent it seeks to include models/model years that do not have the components identified in
23 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
24 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
25 BMW X3.

26 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
27 of another entity or entities and to the extent it seeks information not within BMW NA’s
28 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the

1 putative class vehicles; it does not design or manufacture them. BMW NA's responds to this
2 Request only on its behalf.

3 BMW NA objects to this Request as improper to the extent it could be construed to seek
4 information covered by the attorney-client privilege, the attorney work product doctrine, or any
5 other judicially recognized privilege, protection, or rights of confidentiality.

6 BMW NA objects to this Request to the extent it seeks information that would require
7 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
8 grounds that it seeks information that would violate the privacy rights of consumers under state
9 and federal law.

10 **REQUEST FOR PRODUCTION NO. 27:**

11 All Communications between BMW NA, or someone on behalf of BMW NA, and
12 consumers regarding actual or potential defects in the Electronic Component Parts or Drainage
13 Tubes in the Class Vehicles, including, but not limited to complaints about the failure or
14 compromise of the Electronic Component Parts due to water ingress or moisture build-up.

15 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

16 BMW NA objects to this Request on the grounds that the term "Electronic Component
17 Parts" is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
18 this case as it includes components not identified in the TAC and/or that are not located in the
19 spare tire well or "lowest point in the trunk," as alleged in the complaint.

20 BMW NA objects to this Request on the grounds that the term "Class Vehicles" is
21 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
22 to the extent it seeks to include models/model years that do not have the components identified in
23 the TAC and/or components not located in the spare tire well or "lowest point in the trunk," as
24 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
25 BMW X3.

26 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
27 of another entity or entities and to the extent it seeks information not within BMW NA's
28 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the

1 putative class vehicles; it does not design or manufacture them. BMW NA's responds to this
2 Request only on its behalf.

3 BMW NA objects to this Request on the grounds that it violates the privacy rights of
4 consumers under state and federal law.

5 Subject to and without waiving the foregoing objections, *see* BMW NA's Response to
6 Request No. 24.

7 **REQUEST FOR PRODUCTION NO. 28:**

8 All Documents regarding repairs to or inspection and testing of any parts of the Electronic
9 Component Parts, the compartment within which the Electronic Component Parts sit, and/or
10 Drainage Tubes. This includes policies, procedures, guidelines, training materials, service
11 bulletins, warranties, or repair protocols.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

13 BMW NA objects to this Request on the grounds that the term "Electronic Component
14 Parts" is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
15 this case as it includes components not identified in the TAC and/or that are not located in the
16 spare tire well or "lowest point in the trunk," as alleged in the complaint.

17 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
18 of another entity or entities and to the extent it seeks information not within BMW NA's
19 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
20 putative class vehicles; it does not design or manufacture them. BMW NA's responds to this
21 Request only on its behalf.

22 BMW NA objects to this Request as improper to the extent it could be construed to seek
23 information covered by the attorney-client privilege, the attorney work product doctrine, or any
24 other judicially recognized privilege, protection, or rights of confidentiality. It is too premature to
25 determine whether this Request calls for responsive but privileged material, but if it turns out that
26 it does, BMW NA agrees to produce a privilege log.

27 BMW NA objects to this Request to the extent it seeks information that would require
28 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the

1 grounds that it seeks information that would violate the privacy rights of consumers under state
2 and federal law.

3 Subject to and without waiving the foregoing objections, *see* BMW NA's Response to
4 Request No. 7.

5 **REQUEST FOR PRODUCTION NO. 29:**

6 All Documents that relate to changes made to the Electronic Component Parts, the
7 Drainage Tubes and/or the compartment within which the Electronic Component Parts sit in the
8 Class Vehicles, including, but not limited to engineering changes, manufacturing or design
9 changes, process changes, coating changes, changes in materials, change of location, or changes to
10 the durability of the components used.

11 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

12 BMW NA objects to this Request on the grounds that the term "Electronic Component
13 Parts" is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
14 this case as it includes components not identified in the TAC and/or that are not located in the
15 spare tire well or "lowest point in the trunk," as alleged in the complaint.

16 BMW NA objects to this Request on the grounds that the term "Class Vehicles" is
17 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
18 to the extent it seeks to include models/model years that do not have the components identified in
19 the TAC and/or components not located in the spare tire well or "lowest point in the trunk," as
20 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
21 BMW X3.

22 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
23 of another entity or entities and to the extent it seeks information not within BMW NA's
24 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
25 putative class vehicles; it does not design or manufacture them. BMW NA's responds to this
26 Request only on its behalf.

1 BMW NA objects to this Request as improper to the extent it could be construed to seek
2 information covered by the attorney-client privilege, the attorney work product doctrine, or any
3 other judicially recognized privilege, protection, or rights of confidentiality.

4 BMW NA objects to this Request to the extent it seeks information that would require
5 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
6 grounds that it seeks information that would violate the privacy rights of consumers under state
7 and federal law. Accordingly, BMW NA agrees to produce any non-privileged, responsive
8 information called for by this Request following entry of a stipulated protective order governing
9 the production of confidential matter.

10 Subject to and without waiving the foregoing objections, *see* BMW NA's Response to
11 Request No. 7.

12 **REQUEST FOR PRODUCTION NO. 30:**

13 The owner's manual for each year and model of the Class Vehicles.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

15 BMW NA objects to this Request on the grounds that the term "Class Vehicles" is
16 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
17 to the extent it seeks to include models/model years that do not have the components identified in
18 the TAC and/or components not located in the spare tire well or "lowest point in the trunk," as
19 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
20 BMW X3.

21 BMW NA objects that this Request is harassing because it requests the information BMW
22 NA already provided as part of its Fed. R. Civ. P. 26 Initial Disclosures

23 Subject to and without waiving the foregoing objections, as part of its Initial Disclosures,
24 BMW NA produced the Owner's Manuals applicable to the named plaintiffs' vehicles and
25 referred plaintiffs to a website where the requested materials can be downloaded.

1 Subject to and without waiving the foregoing objections, insofar as it understands this
2 request, BMW NA is the warrantor for the Class Vehicles, as evidenced by the warranty materials
3 for the Class Vehicles produced as part of its Initial Disclosures.

4 **REQUEST FOR PRODUCTION NO. 34:**

5 Copies of each warranty and extended warranty that applies or may apply to the Class
6 Vehicles.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

8 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
9 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
10 to the extent it seeks to include models/model years that do not have the components identified in
11 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
12 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
13 BMW X3.

14 Subject to and without waiving the foregoing objections, as part of its Initial Disclosures,
15 BMW NA produced the New Vehicle Limited Warranties and the Certified Pre-Owned Warranties
16 applicable to the named Plaintiffs’ vehicles and referred Plaintiffs to a website where the requested
17 materials can be downloaded.

18 **REQUEST FOR PRODUCTION NO. 35:**

19 All Documents identifying the number of customers who requested a service person,
20 retailer, or any other authorized provider to inspect the defects alleged in Plaintiffs’ Complaint.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

22 BMW NA objects to the undefined terms and phrases “inspect the defects” as vague,
23 ambiguous, overbroad, unduly burdensome.

24 BMW NA further objects to this Request as argumentative and assuming facts with respect
25 to the existence of “defects.”

26 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
27 of another entity or entities and to the extent it seeks information not within BMW NA’s
28 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the

1 putative class vehicles; it does not design or manufacture them. BMW NA's responds to this
2 Request only on its behalf.

3 BMW NA objects to this Request as improper to the extent it could be construed to seek
4 information covered by the attorney-client privilege, the attorney work product doctrine, or any
5 other judicially recognized privilege, protection, or rights of confidentiality. It is too premature to
6 determine whether this Request calls for responsive but privileged material, but if it turns out that
7 it does, BMW NA agrees to produce a privilege log.

8 BMW NA objects to this Request to the extent it seeks information that would require
9 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
10 grounds that it seeks information that would violate the privacy rights of consumers under state
11 and federal law. Accordingly, BMW NA agrees to produce any non-privileged, responsive
12 information called for by this Request following entry of a stipulated protective order governing
13 the production of confidential matter.

14 Subject to and without waiving the foregoing objections, BMW NA does not service
15 vehicles, its authorized dealerships do, all of which are independently owned and operated. As
16 such, to the extent it understands this Request, BMW NA has no responsive documents. By way
17 of further response and to the extent this Request seeks calls by customers to BMW NA, *see*
18 BMW NA's Response to Request No. 24.

19 **REQUEST FOR PRODUCTION NO. 36:**

20 All Documents concerning your refund, repair, or replacement policies applicable to the
21 Class Vehicles.

22 **RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

23 BMW NA objects to the phrase "your refund, repair, or replacement policies" as vague and
24 ambiguous and overbroad because it is untethered to the claims alleged in the TAC.

25 BMW NA objects to this Request on the grounds that the term "Class Vehicles" is
26 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
27 to the extent it seeks to include models/model years that do not have the components identified in
28 the TAC and/or components not located in the spare tire well or "lowest point in the trunk," as

1 not limited to internal memoranda, emails, board meeting minutes, service flashes, customer
2 service reports, quality and control reports, and/or any other reports.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 41:**

4 BMW NA objects to this request as not reasonably calculated to lead to the discovery of
5 admissible evidence. BMW NA objects this Request is overbroad and burdensome and out
6 proportion to the needs of the case.

7 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
8 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
9 to the extent it seeks to include models/model years that do not have the components identified in
10 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
11 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
12 BMW X3.

13 BMW NA objects to this Request as improper to the extent it could be construed to seek
14 information covered by the attorney-client privilege, the attorney work product doctrine, or any
15 other judicially recognized privilege, protection, or rights of confidentiality.

16 BMW NA objects to this Request to the extent it seeks information that would require
17 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
18 grounds that it seeks information that would violate the privacy rights of consumers under state
19 and federal law.

20 Subject to and without waiving the foregoing objections, *see* BMW NA’s Response to
21 Request No. 8.

22 **REQUEST FOR PRODUCTION NO. 42:**

23 All Documents generated by any manufacturer or designer revealing components of the
24 Class Vehicles that relate to the alleged defects in the Class Vehicles.

25 **RESPONSE TO REQUEST FOR PRODUCTION NO. 42:**

26 BMW NA objects to the phrase “revealing components of the Class Vehicles that relate to
27 . . .” as incomprehensible and making the Request impossible to answer.

1 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
2 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
3 to the extent it seeks to include models/model years that do not have the components identified in
4 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
5 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
6 BMW X3.

7 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
8 of another entity or entities and to the extent it seeks information not within BMW NA’s
9 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
10 putative class vehicles; it does not design or manufacture them. BMW NA’s responds to this
11 Request only on its behalf.

12 BMW NA objects to this Request as improper to the extent it could be construed to seek
13 information covered by the attorney-client privilege, the attorney work product doctrine, or any
14 other judicially recognized privilege, protection, or rights of confidentiality.

15 BMW NA objects to this Request to the extent it seeks information that would require
16 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
17 grounds that it seeks information that would violate the privacy rights of consumers under state
18 and federal law. Accordingly, BMW NA agrees to produce any non-privileged, responsive
19 information called for by this Request following entry of a stipulated protective order governing
20 the production of confidential matter.

21 Subject to and without waiving the foregoing objections, BMW NA does not design or
22 manufacture the Class Vehicles. By way of further response, *see* BMW NA’s Response to
23 Request No. 7.

24 **REQUEST FOR PRODUCTION NO. 43:**

25 All Documents that you contend support any basis for challenging the ability for Plaintiffs
26 to maintain this case as a class action, including:

- 27 a. that the class is so numerous joinder is impracticable;
- 28

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 47:**

2 BMW NA objects that this Request on the grounds that it is premature as the Court has not
3 set a time for the parties' testifying expert disclosures.

4 **REQUEST FOR PRODUCTION NO. 48:**

5 All DVPRs, DVRTS, or Documents related to testing performed to verify the design of the
6 Electronic Component Parts and/or Drainage Tubes, including, but not limited to the durability of
7 those components and the location of the Electronic Component Parts.

8 **RESPONSE TO REQUEST FOR PRODUCTION NO. 48:**

9 BMW NA objects to this Request on the grounds that the term "Electronic Component
10 Parts" is overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in
11 this case as it includes components not identified in the TAC and/or that are not located in the
12 spare tire well or "lowest point in the trunk," as alleged in the complaint.

13 BMW NA objects to the terms "DVPRs [and] DVRTS" as vague and ambiguous.

14 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
15 of another entity or entities and to the extent it seeks information not within BMW NA's
16 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
17 putative class vehicles; it does not design or manufacture them. BMW NA's responds to this
18 Request only on its behalf.

19 BMW NA objects to this Request as improper to the extent it could be construed to seek
20 information covered by the attorney-client privilege, the attorney work product doctrine, or any
21 other judicially recognized privilege, protection, or rights of confidentiality.

22 BMW NA objects to this Request to the extent it seeks information that would require
23 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
24 grounds that it seeks information that would violate the privacy rights of consumers under state
25 and federal law.

26 Subject to and without waiving the foregoing objections, BMW NA did not design or
27 manufacture the Class Vehicles.

1 **REQUEST FOR PRODUCTION NO. 49:**

2 All Documents that reference or relate to design specifications of the Electronic
3 Component Parts and Drainage Tubes in the Class Vehicles. This includes drawings, blueprints
4 and diagrams.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 49:**

6 BMW NA objects to this Request on the grounds that the term “Class Vehicles” is
7 overbroad, unduly burdensome, and unrelated to the alleged defect or claims asserted in this case
8 to the extent it seeks to include models/model years that do not have the components identified in
9 the TAC and/or components not located in the spare tire well or “lowest point in the trunk,” as
10 alleged in the complaint. Further, there is no model year 1999 BMW X5 or model year 2003
11 BMW X3.

12 BMW NA objects that this Request is harassing because it duplicates the information
13 sought in Requests Nos. 1 and 2.

14 BMW NA objects to this Request to the extent it requires BMW NA to respond on behalf
15 of another entity or entities and to the extent it seeks information not within BMW NA’s
16 possession, custody, or control. Specifically, BMW NA is a distributor and warrantor of the
17 putative class vehicles; it does not design or manufacture them. BMW NA’s responds to this
18 Request only on its behalf.

19 BMW NA objects to this Request as improper to the extent it could be construed to seek
20 information covered by the attorney-client privilege, the attorney work product doctrine, or any
21 other judicially recognized privilege, protection, or rights of confidentiality.

22 BMW NA objects to this Request to the extent it seeks information that would require
23 BMW NA to disclose trade secret, proprietary, and/or confidential information, and on the
24 grounds that it seeks information that would violate the privacy rights of consumers under state
25 and federal law.

26 ///

27 ///

28 ///

Subject to and without waiving the foregoing objections, BMW NA did not design or manufacture the Class Vehicles. By way of further response, *see* BMW NA's Response to Request No. 2.

Dated: May 4, 2015

CARROLL, BURDICK & McDONOUGH LLP

By /s/ Eric J. Knapp

Eric J. Knapp

Attorneys for Defendant

BMW of NORTH AMERICA, LLC